

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ANDREW TORO, on behalf of himself and all others  
similarly situated,

Plaintiffs,

-against-

VAPOR BOSS, LLC,

Defendant.

24-CV-1401 (JGLC)

**ORDER**

JESSICA G. L. CLARKE, United States District Judge:

Before the Court is Plaintiffs' letter-motion for an extension of time to file proof of service and requesting leave to effectuate service on Defendant Vapor Boss, LLC by serving the California Secretary of State. ECF No. 7. "When a plaintiff cannot with 'reasonable diligence' locate a defendant's designated agent or any other person authorized to receive service, Fed.R.Civ.P. 4(e)(1) and California Corporations Code § 1702(a) permit an application for a court order that service be made by hand delivery of the summons and complaint to the California Secretary of State." *Fitzgerald v. GEM Funding, LLC*, No. 21-CV-8641 (EJD), 2022 WL 4537881, at \*5 (N.D. Cal. Sept. 28, 2022) (cleaned up).

Here, Plaintiffs' have demonstrated that they attempted service on Defendant on ten occasions at three different addresses. *See* ECF Nos. 7-1-7-3. The Court finds that this constitutes reasonable diligence. Accordingly, the Court GRANTS plaintiffs' request to effectuate service on Defendant Vapor Boss, LLC by serving the California Secretary of State. Plaintiff is ordered to file proof of service with the Court by no later than **July 1, 2024**. Plaintiff's deadline to file a motion for default judgment, in accordance with ECF No. 6, is adjourned *sine die*. The Clerk of Court is directed to terminate ECF No. 7.

Dated: May 30, 2024  
New York, New York

SO ORDERED.



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JESSICA G. L. CLARKE  
United States District Judge